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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/064,118

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Lawrence Miller

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EXAMINER

HAMZA, FARUK

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/064,118	Applicant(s) MILLER ET AL.	
	Examiner Faruk Hamza	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the RCE filed on November 14, 2005. Claims 1 and 5-7 have been amended. Claims 8-16 have been newly added. Claims 1-16 are now pending.

Drawings

2. The drawings are objected to because they are handwritten in places. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-4 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/084221. This is a provisional double patenting rejection because the conflicting claims have not in fact been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent

granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

Application 10/064118 is in *italics*. Application 10/064,221 is in **bold**.

Claim 1: *A method for providing information to a client browser, the method comprising:*

sending a first request from a client to a server (**Claim 1: sending a request from a client to a server**);

responsive to the first request, initiating a request by the server to create a token (**Claim 1: wherein the token is created responsive to an earlier request from the client to the server**);

responsive to the first request, sending information from the server to the client, the information including at least display data and a first link corresponding to the token but not including the token (**Claims:4 if the token is not available to send to the client, sending a response to the client without the token**);

rendering the display data in a browser of the client (**Claims:4 if the token is not available to send to the client, sending a response to the client without the token**);

sending a second request from the client to the first link, the second request not including the token (**Claim 1: sending a request from a client to a server**);

determining at the first link whether the token is created; and (**Claim 1: determining whether the token is available to send to the client**)

if the token is created, sending the token to the client (Claim 3: if the token is available to send to the client, sending a response to the client with the token).

*Claim 2: A method according to claim 1, further comprising: starting a timer after initiating the request to create a token (Claim 5: **determining if a timer exceeds a predetermined value**).*

Claim 3: A method according to claim 2, further comprising:

*If the token is not yet created, comparing the timer to a predetermined value (Claim 6: **if the timer does not exceed the predetermined value, determining whether the token is available to send to the client**).*

*Claim 4: A method according to claim 3, further comprising: if the timer exceeds the predetermined value, sending a second link to the client, the second link corresponding to the token (Claim 7: **if the timer does exceed the predetermined value, sending a response to the client without the token**).*

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 5 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For a subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea of mathematical algorithm in the technological art. However, "information signal" and "computer executable software code" recited in claim 5 are not tangible. Specification failed to provide antecedent basis for "information signal" recited in claim 5, it appears that information signal is not limited to tangible embodiment, therefore non-statutory.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 5-7 and 11-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The negative limitation added to the claims is "the second request not including

the token". Upon careful consideration of the specification, no portion of the specification can be located that deal with including/not including a token in the request from the client to the server. It is unknown why the client would be transmitting a token to the server when the invention instead seems to be directed to retrieving token from the server.

Newly added claim 11 recites "a second server". Upon careful consideration of the specification, no portion of the specification can be located that deal with "a second server" creates token.

Newly added claim 12 recites, "the first link is a link to the server". Upon careful consideration of the specification, no portion of the specification can be located that deal with "the first link is a link to the server".

Newly added claim 13 recites, "the first link is a link to a second server". Upon careful consideration of the specification, no portion of the specification can be located that deal with "the first link is a link to a second server".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. The term "a predetermined value" in claims 3 and 4 is a relative term which renders the claim indefinite. The term " a predetermined value" is not

defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification makes a possible suggestion of this predetermined value in paragraph [0009] and [0010], but one of ordinary skill in the art would be unsure if this actually applies to the invention as claimed based on his/her reading of the specification.

8. Claims 1 and 3-7 consist of claims containing the equivalent of "if.....then..." statements. This type of statement does not clearly define what is included and not included within the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1,5-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Montulli (U.S. Patent Number 6,134,592).

Montulli teaches the invention as claimed including a method and apparatus for transferring state information between a server computer system and a client computer system (See abstract).

As to claim 1, Montulli teaches a method for providing information to a client browser, the method comprising:

 sending a first request from a client to a server (Column 7, lines 35-36, Montulli discloses request from client to server);

 responsive to the first request, initiating a request by the server to create a token (Column 7, lines 35-36, Montulli discloses creating token);

 responsive to the first request, sending information from the server to the client, the information including at least display data and a first link corresponding to the token but not including the token (Column 6, lines 1-15; Column 7, lines 21-25, lines 36-40 Montulli discloses link corresponding to the token);

 rendering the display data in a browser of the client (Column 7, lines 40-43, Montulli discloses rendering the display data in a browser);

 sending a second request from the client to the first link, the second request not including the token (Column 6, lines 1-15; Column 7, lines 45-50, Montulli discloses sending second request);

 determining at the first link whether the token is created; and (Column 7, lines 21-25, Column 8, lines 21-22, Montulli discloses determining if token is created)

if the token is created, sending the token to the client. (Column 8, lines 21-24, Montulli discloses sending token to the client).

Claims 5, 6 and 7 represent program product that are parallel to method claim 1 and therefore are rejected for similar reasons.

As to claim 8, Montulli teaches a method according to claim 1, wherein the token is a cookie (Column 7, lines 33-50).

As to claim 9, Montulli teaches a method according to claim 1, wherein the first link is a link to clear gif (Column 6, lines 48-57).

As to claim 10, Montulli teaches a method according to claim 1, wherein the server creates the token (Column 7, lines 33-50).

As to claim 11, Montulli teaches a method according to claim 1, wherein a second server creates the token (Column 7, lines 33-50).

As to claim 12, Montulli teaches a method according to claim 1, wherein the first link is a link to the server (Column 7, lines 21-25, lines 36-40).

As to claim 13, Montulli teaches a method according to claim 1, wherein the first link is a link to a second server (Column 7, lines 21-25, lines 36-40).

As to claim 14, Montulli teaches a method according to claim 1, wherein the first request is an http request (Column 7, lines 21-25, lines 36-40).

As to claim 15, Montulli teaches a method according to claim 1, wherein the token is a slow cookie (Column 7, lines 21-25, lines 36-40).

As to claim 16, Montulli teaches a method according to claim 1, wherein the information includes html (Column 6, lines 1-15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 10.** Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montulli (U.S. Patent Number 6,134,592) as applied above, and further in view of Sato et al. (U.S. Patent Number 6,718,482) hereinafter referred as Sato.

Sato teaches the invention substantially as claimed including computer system and method for monitoring faults occurring in the computer system (See abstract).

As to claim 2, Montulli teaches a method according to claim 1, further comprising initiating request to create token and life time of that token (Montulli, Column 8, lines 26-31).

Montulli does not explicitly teach the claimed limitation of using timer.

However, Sato teaches using count-down timer. (Column 14, lines 31-33).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Montulli by using timer to keep track of session time. One would be motivated to do so to limit the life time of a session created between a client and server.

As to claim 3, Montulli teaches a method according to claim 2, further comprising initiating request to create token and life time of that token (Montulli, Column 8, lines 26-31).

Montulli does not explicitly teach the claimed limitation of comparing timer with predetermined time.

However, Sato teaches comparing timer with predetermined time. (Sato, Column 15, lines 30-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Montulli by using timer to compare used time with predetermined time to enhance system performance. One would be motivated to do so to limit the life time of a session created between a client and server.

As to claim 4, Montulli teaches a method according to claim 3, further comprising sending a second link to the client, the second link corresponding to the token. (Montulli, Column 12, lines 46-51).

Montulli does not explicitly teach the claimed limitation of timer exceeds the predetermined value.

However, Sato teaches comparing timer with predetermined time. (Sato, Column 15, lines 30-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Montulli by using timer to compare used time with predetermined time to enhance system performance. One would be motivated to do so to limit the life time of a session created between a client and server.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Art Unit: 2155

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll –free).

Faruk Hamza

Patent Examiner

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